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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.133B-1.]

Final priority; National Institute on Disability and Rehabilitation Research--Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority for the Disability and Rehabilitation Research Projects and Centers Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR).

Specifically, we announce a priority for a Rehabilitation Research and Training Center (RRTC) on Research and Capacity Building for Minority Entities. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend this priority to improve outcomes among individuals with disabilities.

EFFECTIVE DATE: This priority is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue, SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202-2700. Telephone: (202) 245-7532 or by email: marlene.spencer@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. Such activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with disabilities. Additional information on the RRTC program can be found at:

www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priority in the Federal Register on March 6, 2013 (78 FR 14480). That notice contained background information and our reasons for proposing this priority.

There is one difference between the proposed priority and this final priority. We have updated the reference to NIDRR's current Long-Range Plan in paragraph (a). NIDRR's Long-Range Plan for Fiscal Years 2013-2017 (Plan) was published in the Federal Register on April 4, 2013 (78 FR

20299) during the public comment period for this priority.

Public Comment: In response to our invitation in the notice of proposed priority, three parties submitted comments on the proposed priority.

Generally, we do not address technical and other minor changes or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, generally we do not address comments that raise concerns not directly related to the proposed priority or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the proposed priority follows.

Comment: One commenter asked whether the RRTC must focus its activities on the Federal-State vocational rehabilitation (VR) program and its mission of assisting individuals with disabilities to become employed.

Discussion: Although applicants may choose to focus their research activities on topics related to the Federal-State VR program, they are not required to do so.

Changes: None.

Comment: One commenter asked whether military veterans of color with disabilities would be a valid target population of "traditionally underserved racial and ethnic

populations," as described in paragraph (a) of the priority.

Discussion: Yes. "Traditionally Underserved Populations" is used in Section 21 of the Rehabilitation Act to refer to minority populations who have historically had high rates of disability, low rates of access to rehabilitation services, and relatively poor outcomes, compared to white individuals with disabilities. Applicants are free to propose and justify a focus on veterans of color with disabilities or any other underserved population. The peer review process will determine the merits of each application.

Changes: None.

Comment: One commenter noted that conducting research on the experiences and outcomes of individuals with disabilities from traditionally underserved racial and ethnic populations, as required by paragraph (a) of the priority, necessitates the availability and involvement of research personnel with appropriate cultural and linguistic capabilities.

Discussion: NIDRR generally agrees that the personnel proposed to conduct required RRTC activities must have the appropriate backgrounds and expertise. NIDRR does not typically specify or require those areas of expertise in

its priorities. Instead, we rely on the peer review process to determine the quality of the proposed personnel's training, experience, and knowledge in the areas specified in the priority. These personnel considerations are spelled out in the peer review criteria for project staff that we employ in all NIDRR competitions (34 CFR 350.54(n)).

Changes: None.

Comment: One commenter suggested that the priority include cultural competence in the Center's required capacity building efforts.

Discussion: As we described in the background to the proposed priority (78 FR 14480), NIDRR anticipates that the minority entities that are the recipients of the RRTC's capacity building efforts will already have close social and cultural connections to individuals with disabilities from minority backgrounds. Building the capacity of minority entities to conduct disability and rehabilitation research may include a focus on cultural competence.

However, there is a wide range of other disability and rehabilitation research capacities to be built at minority entities and on which applicants may choose to focus-- developing a robust research infrastructure, including administrative and technological support, research

libraries, and research-focused graduate and postdoctoral research training programs, for example. While nothing in the priority precludes applicants from including cultural competence as a component of their capacity building efforts, NIDRR does not wish to limit the range of applications that we receive by requiring all applicants to do so.

Changes: None.

Comment: One commenter questioned the need for this priority.

Discussion: By publishing this priority and creating an RRTC on Research and Capacity Building for Minority Entities, we are fulfilling the intent and the requirements of Section 21 of the Rehabilitation Act.

Changes: None.

FINAL PRIORITY:

Background:

This final priority is in concert with NIDRR's Plan, which can be accessed on the Internet at the following site:

www.ed.gov/about/offices/list/osers/nidrr/policy.html.

Through the implementation of the Plan, NIDRR seeks to improve the health and functioning, employment, and community living and participation of individuals with

disabilities through comprehensive programs of research, engineering, training, technical assistance, and knowledge translation and dissemination. The Plan reflects NIDRR's commitment to quality, relevance, and balance in its programs to ensure appropriate attention to all aspects of well-being of individuals with disabilities and to all types and degrees of disability, including low-incidence and severe disabilities.

Priority--RRTC on Research and Capacity Building for Minority Entities.

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for a Rehabilitation Research and Training Center (RRTC) on Research and Capacity Building for Minority Entities. One purpose of the RRTC is to generate new knowledge about the experiences and outcomes of individuals with disabilities from racial and ethnic minority backgrounds that can be used as a foundation for developing interventions to improve those outcomes. Another purpose of the RRTC is to enhance rehabilitation research capacity at minority entities, as defined in section 21 of the Rehabilitation Act (29 U.S.C. 718). The RRTC must contribute to these outcomes by:

(a) Conducting research that examines experiences and outcomes of individuals with disabilities from traditionally underserved racial and ethnic populations. Applicants must focus their research activities on topics that fall under at least one of the following major life domains identified in NIDRR's Long-Range Plan for Fiscal Years 2013-2017 (78 FR 20299): (1) Employment, (2) Community Living and Participation, or (3) Health and Function.

(b) Conducting research on the feasibility and potential effectiveness of methods and models for enhancing disability and rehabilitation research capacity and infrastructure at minority entities.

(c) Serving as a national resource center for minority entities that are seeking to develop their research infrastructure, and to enhance their capacity to engage in disability and rehabilitation research. The RRTC must provide technical assistance and training to minority entities in order to develop their institutional research infrastructure and enhance their capacity to conduct disability and rehabilitation research.

(d) Involving individuals with disabilities from traditionally underserved racial and ethnic populations in

planning and implementing the RRTC's activities and evaluating its work.

(e) Providing outreach and training that enhances awareness of NIDRR and its research programs among minority entities.

(f) Developing and implementing a strategy for disseminating research, training, and technical assistance products developed by the RRTC. The RRTC's dissemination strategy must include an online information dissemination system that meets a government- or industry-recognized standard for accessibility by individuals with disabilities.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on

the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive

Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in

Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as

necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to the new RRTC have been completed successfully, and the new RRTC, established consistently with this final priority, is expected to improve the lives of individuals with disabilities from minority backgrounds; generate through research and development, disseminate, and promote the use of new information that will improve the outcomes for individuals with disabilities; and increase the capacity of minority entities to conduct disability and rehabilitation research and develop rehabilitation research professionals.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at:

www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Dated: June 11, 2013.

Michael K. Yudin,
Delegated the authority
to perform the functions
and the duties of the
Assistant Secretary for
Special Education and
Rehabilitative Services.

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